



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/634,122	04/19/1996	MOTOKI KATO	SONY-C4021	8800

7590 03/31/2004

WILLIAM S. FROMMER, ESQ.
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT	PAPER NUMBER
----------	--------------

2613

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/634,122

Applicant(s)

KATO, MOTOKI

Examiner

Andy S. Rao

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2613

DETAILED ACTION

Response to Amendment

1. As per the Applicant's instructions filed in Paper 50 on 12/29/03, claims 23-34 have been added.
2. Applicant's arguments filed with respect to previously presented claims 15-22 as filed in Paper 50 on 12/29/03 have been fully considered but they are not persuasive.
3. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raychaudhuri et al., (hereinafter referred to as "Raychaudhuri") in view of Behlen, as was set forth in the previous Office Action of Paper 46 mailed on 4/21/2003.
4. The Applicant presents four arguments contending the Examiner's pending rejection of claims 15-22 under 35 U.S.C. 103(a) as being unpatentable over Raychaudhuri et al., (hereinafter referred to as "Raychaudhuri") in view of Behlen, as was set forth in the prior Office Action of Paper 46 mailed on 4/21/03. However, after a careful consideration of the arguments presented the Examiner must respectfully disagree of the reasons that follow, and further apply those references as the basis for the grounds of rejection against newly added claims 23-34.

Firstly, the Applicant's argue that Raychaudhuri fails to adequately read on "comparing an extension of a current header of said specified layer to an extension of said anterior header..." as in the claims (Paper 46: page 7, lines 10-21; page 8, lines 1-18). The Examiner respectfully disagrees. It is noted that the video header data is excised by the converter if it would be redundant in transport headers. Now contrary to a video header data versus a transport header data comparison as espoused by the Applicant (Paper 50: page 8, lines 12-17), the Examiner asserts that the reference makes a comparison of a video header data versus the next video

Art Unit: 2613

header data comparison so that multiple versions of same video headers are not redundantly occurring within said transport header. That way, during reconstruction, all one has to do is to look at the transport headers to reassemble the video data (Raychaudhuri: column 14, lines 15-20). Additionally, it is noted that even the Applicant's interpretation of the comparison (i.e. video header data versus transport header) is obvious over established case law. If the extension byte of a current header residing in the video data is the same as extension byte of a previous header copied to the transport header, the transport header information would be modified in the manner as in the claims. The operands of the comparison would be the same, but the information repositories are different. However, it is noted that the effect of comparison using the same operands are the same, that is, in both cases, the comparison of instant invention and the comparison of Raychaudhuri indicate extensions of header data (Raychaudhuri: column 4, lines 50-60). The Examiner notes that a shift of location in the parts (i.e. the comparison) has been found to be obvious, *In re Japikse*, 86 USPQ 70 (CCPA 1950), and absent some significant difference in the functioning as a direct result of this shift, cannot be found to be patentable. Accordingly, the Examiner maintains that the primary reference this limitation.

Secondly, the Applicants argue that the header information is picture layer information (Paper 50: page 8, lines 19-21; page 9, lines 1-3). The Examiner respectfully disagrees. It is noted that as discussed above, the comparison would be made between consecutive headers of the same level of the video header data, and further that Raychaudhuri discloses that the picture layer header is a known level of the video header data (Raychaudhuri: column 5, lines 5-10). Accordingly, the Examiner maintains that this comparison would be made at a picture header layer as well.

Art Unit: 2613

In response to applicant's arguments against the references individually (Paper 50: page 9, lines 3-5), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Additionally, it is unfathomable to the Examiner how the Applicants can assert that primary reference fails to teach a stream that is not compatible with the MPEG-1 moving picture standard (Paper 46: page 9, lines 6-8), when it references the MPEG-1 standards documentation in the background of the relevant art (Raychaudhuri: column 1, lines 10-24), and further discloses it as a desired compression format of the application of the reference (Raychaudhuri: column 4, lines 10-23).

A detailed rejection of claims 23-34 follows below.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 23-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raychaudhuri et al., (hereinafter referred to as "Raychaudhuri") in view of Behlen, as applied to claims 15, 17, 19, and 21, as was set forth in the previous Office Action of Paper 46 mailed on and further in view of Meyer.

The Raychaudhuri method, now incorporating the Behlen teaching of using extension bytes, has a majority of the features of claim 23-25 and 26-28, as has been previously discussed in the Office Action of Paper 46 mailed on 4/21/03 concerning respective claims 15 and 17, however, the Raychaudhuri-Behlen combination fails to disclose having the extension start code having an extension start code identifier as in the claims. Meyer discloses the use of extension start code identifiers in order to allow for expansion and customization of the video compression syntax of the MPEG standard (Meyer: column 7, lines 40-60), as in the claims. Accordingly, the given this teaching it would have been obvious for one of ordinary skill in the art to incorporate the use of Meyer's extension start code identifiers into the Raychaudhuri-Behlen combination in order to allow for expansion and customization of the MPEG standard implementation of the original combination. The Raychaudhuri method, now incorporating the Behlen teaching of using extension bytes and Meyer's extension start code identifiers, has all of the features of claims 23-28.

The Raychaudhuri apparatus, now incorporating the Behlen teaching of using extension bytes, has a majority of the features of claims 29-31 and 32-34, as has been previously discussed in the Office Action of Paper 46 mailed on 4/21/03 concerning respective claims 19 and 21, however, the Raychaudhuri-Behlen combination fails to disclose having the extension start code having an extension start code identifier as in the claims. Meyer discloses the use of extension start code identifiers in order to allow for expansion and customization of the video compression syntax of the MPEG standard (Meyer: column 7, lines 40-60), as in the claims. Accordingly, the given this teaching it would have been obvious for one of ordinary skill in the art to incorporate the use of Meyer's extension start code identifiers into the Raychaudhuri-Behlen combination in

Art Unit: 2613

order to allow for expansion and customization of the MPEG standard implementation of the original combination. The Raychaudhuri apparatus, now incorporating the Behlen teaching of using extension bytes and Meyer's extension start code identifiers, has all of the features of claims 29-34.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (703)-305-4813. The examiner can normally be reached on Monday-Friday 8 hours.

Art Unit: 2613

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S. Kelley can be reached on (703)-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andy S. Rao
Primary Examiner
Art Unit 2613

ANDY RAO
PRIMARY EXAMINER



asr
March 24, 2004